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EXTRAORDINARY

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PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

BILL No. 87 OF 2003

A Bill to prohibit the improper use of State Emblem of India for professional and commercial purposes and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the State Emblem of India (Prohibition of Improper Use) Act, 2003.

Short title,
extent,
application and
commencement.

(2) It extends to the whole of India, and also applies to citizens of India outside India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "competent authority" means any authority competent under any law for the time being in force to register any company, firm, other body of persons or any trade mark or design or to grant a patent;

(b) "emblem" means the State Emblem of India as described and specified in the Schedule to be used as an official seal of the Government.

Prohibition of
improper use
of emblem.

3. Notwithstanding anything contained in any other law for the time being in force, no person shall use the emblem or any colourable imitation thereof in any manner which tends to create an impression that it relates to the Government or that it is an official document of the Central Government, or as the case may be, the State Government, without the previous permission of the Central Government or of such officer of that Government as may be authorised by it in this behalf.

Explanation.—For the purposes of this section, "person" includes a former functionary of the Central Government or the State Governments.

Prohibition of
use of emblem
for wrongful
gain.

4. No person shall use the emblem for the purpose of any trade, business, calling or profession or in the title of any patent, or in any trade mark or design, except in such cases and under such conditions as may be prescribed.

Prohibition of
registration of
certain compa-
nies, etc.

5. (1) Notwithstanding anything contained in any other law for the time being in force, no competent authority shall,—

(a) register a trade mark or design which bears the emblem, or

(b) grant a patent in respect of an invention which bears a title containing the emblem.

(2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority shall refer the question to the Central Government and the decision of the Central Government thereon shall be final.

General
powers of
Central
Government
to regulate
use of
emblem.

6. (1) The Central Government may make such provision by rules as appears to it to be necessary, to regulate the use of the emblem in official seal that is used in offices of the Central Government and the State Governments and their organisations including diplomatic missions abroad, subject to such restrictions and conditions as may be prescribed.

(2) Subject to the provisions of this Act, the Central Government shall have powers—

(a) to notify the use of emblem on stationery, the method of printing or embossing it on demi official stationery by the constitutional authorities, Ministers, Members of Parliament, Members of Legislative Assemblies, officers of the Central Government and the State Governments;

(b) to specify the design of the official seal consisting of the emblem;

(c) to restrict the display of emblem on vehicles of constitutional authorities, foreign dignitaries, Ministers of the Central Government and the State Governments;

(d) to provide for guidelines for display of emblem on public buildings in India, the diplomatic missions and on the buildings occupied by India's consulates abroad;

(e) to specify conditions for the use of emblem for various other purposes including the use for educational purposes and the armed forces personnel;

(f) to do all such things (including the specification of design of the emblem and its use in the manner whatsoever) as the Central Government considers necessary or expedient for the exercise of the foregoing powers.

7. (1) Any person who contravenes the provisions of section 3 shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both, or if having been previously convicted of an offence under this section, is again convicted of any such offence, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees. Penalty.

(2) Any person who contravenes the provisions of section 4 for any wrongful gain shall be punishable for such offence with imprisonment for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees.

8. No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorised in this behalf by general or special order of the Central Government. Previous sanction for prosecution.

9. Nothing in this Act shall exempt any person from any suit or other proceedings which might be brought against him under any other law for the time being in force. Savings.

10. The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or instrument having effect by virtue of such enactment. Act to have overriding effect.

11. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) cases and conditions regulating the use of emblem under section 4;

(b) making rules to regulate the use of the emblem in official seal of the Government and specifying restrictions and conditions relating thereto under sub-section (1) of section 6;

(c) power to notify use of emblem on stationery, to specify design of official seal consisting of emblem, to restrict display of emblem on certain vehicles only, to provide for guidelines for display of emblem on public buildings, to specify conditions for use of emblem for various other purposes and to do all such things under sub-section (2) of section 6;

(d) authorising officer by general or special order for giving previous sanction for instituting prosecution under section 8; and

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 2(b)]

STATE EMBLEM OF INDIA

DESCRIPTION AND DESIGN

The State Emblem of India is an adaptation from the Sarnath Lion Capital of Asoka which is preserved in the Sarnath Museum. The Lion Capital has four lions mounted back to back on a circular abacus. The frieze of the abacus is adorned with sculptures in high relief of an elephant, a galloping horse, a bull and a lion separated by intervening Dharma Chakras. The abacus rests on a bell-shaped lotus.

The profile of the Lion Capital showing three lions mounted on the abacus with a Dharma Chakra in the centre, a bull on the right and a galloping horse on the left, and outlines of Dharma Chakras on the extreme right and left has been adopted as the State Emblem of India. The Bell-shaped lotus has been omitted.

The motto "Satyameva Jayate".—Truth alone triumphs—written in Devanagari script below the profile of the Lion Capital is part of the State Emblem of India.

The State Emblem of India shall conform to the designs as set out in Appendices I or II.

Appendix I



Note.—This design is in simplified form and meant for reproduction in small sizes such as for use in stationery, seals and die-printing.

Appendix II



Note.—This design is more detailed and meant for reproduction in bigger sizes.

STATEMENT OF OBJECTS AND REASONS

The use of State Emblem of India is presently governed by a set of executive instructions, which cover various aspects, such as, standard design of the State Emblem of India, its adoption by the State Governments, use in the official seals, use on stationery, design of official seal, display on vehicles, display on public buildings, use for educational and various other purposes, etc. However, these instructions/orders do not have any legal enforceability. The State Emblem of India being the official seal of the Government, its use on any document or thing tends to create an impression that it is an official document or thing of the Government. Therefore, there is need to prevent its misuse by unauthorised persons.

2. In order to regulate the use of State Emblem of India with a view to (i) prohibiting the use of the State Emblem of India by members of the public, including retired/former Government officials/public servants, etc., unless specifically authorised by the Central Government; (ii) prohibiting the improper use of the State Emblem of India for professional and commercial purposes and for matters connected therewith or incidental thereto; and (iii) regulating its use by Government functionaries, it is proposed to enact a self-contained legislation.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

L.K.ADVANI.

The 9th December, 2003.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules to regulate the use of the State Emblem of India in official seal of the Central Government and the State Governments and their organisations including diplomatic missions abroad.

Clause 11 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. Without prejudice to the generality of such rule making powers, they include regulating the use of the State Emblem of India for professional and commercial purposes, in the official seal used by the Central Government, the State Governments and their organisations; on stationery, vehicles, public buildings, etc., and authorising an officer for giving previous sanction for instituting prosecution against the offenders.

The rules are confined to matters of procedure and details and the delegation of legislative powers is of a normal character.

BILL No. 85 OF 2003

A Bill further to amend the Sugar Cess Act, 1982.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Sugar Cess (Amendment) Act, 2003.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In section 3 of the Sugar Cess Act, 1982, in sub-section (1),—
 - (a) for the words "fifteen rupees", the words "twenty rupees" shall be substituted;
 - (b) in the proviso, for the words "fourteen rupees", the words "twenty rupees" shall be substituted.

Short title
and commence-
ment.

Amendment
of section 3
of Act 3 of
1982.

STATEMENT OF OBJECTS AND REASONS

The Sugar Development Fund Act, 1982 was last amended by the Sugar Development Fund (Amendment) Act, 2002 so as to enable providing of assistance by way of loans to sugar factories from the Sugar Development Fund formed under the said 1982-Act for- (i) bagasse-based co-generation power projects, (ii) production of anhydrous alcohol or ethanol from alcohol and also for defraying expenditure on internal transport and freight charges on export shipments of sugar. Additional funds are required for supporting the new activities in addition to the existing activities under the Sugar Development Fund Act, 1982. In order to support and fund the new activities from the said Fund, it is considered necessary to increase the rate of cess leviable under the Sugar Cess Act, 1982 from the existing rate of fourteen rupees per quintal on sugar produced by any sugar factory in India to twenty rupees per quintal. The rate of cess levied and collected has remained unchanged at fourteen rupees per quintal since October, 1982. In the above circumstances, it is proposed to amend section 3 of the Sugar Cess Act, 1982 so as to empower the Central Government to levy a cess at such rate not exceeding twenty rupees per quintal of sugar as that Government may, by notification in the Official Gazette, specify. It is also proposed to allow such levy at the rate of twenty rupees per quintal of sugar until a rate is specified by the Central Government.

2. It is felt that the additional cess that will be levied as a result of these amendments will, however, have only a marginal effect on the consumer as the retail prices of sugar are not likely to increase substantially.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

SHARAD YADAV.

The 8th December, 2003.

**PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA**

[Copy of letter No. 1-37/2003-SDF/8356, dated the 9th December, 2003 from Shri Sharad Yadav, Minister of Consumer Affairs, Food and Public Distribution to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Sugar Cess (Amendment) Bill, 2003, recommends the introduction and consideration of the Bill in Lok Sabha under article 117(1) and (3) of the Constitution of India.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend section 3 of the Sugar Cess Act, 1982 for increasing the maximum of the rate that the Central Government may specify by notification in the Official Gazette at which cess as a duty of excise is to be levied and collected on all sugar produced by any sugar factory in India from rupees fifteen per quintal to rupees twenty per quintal and also to increase the rate at which cess may, pending the issue of such notification, be levied from rupees fourteen per quintal to rupees twenty per quintal. It is estimated that the additional cess which may be collected per year at the said rate of rupees twenty per quintal is likely to be of the order of about one hundred and twenty crore rupees. As the cost of collection is being calculated as a percentage of the cess collected, and as this percentage is not likely to exceed one per cent., the additional expenditure by way of cost of collection may be of the order of rupees one crore and twenty lakhs per year.

This Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

G.C. MALHOTRA,
Secretary-General.